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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Jane Doe #1; Jane Doe #2; Norlan Flores, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

Kirstjen M. Nielsen, Secretary, United States  
Department of Homeland Security, in her  
official capacity; Kevin K. McAleenan,  
Acting Commissioner, United States  
Customs & Border Protection, in his official  
capacity; Carla L. Provost, Acting Chief of  
the United States Border Patrol, in her  
official capacity; Rodolfo Karisch,  
Commander, Arizona Joint Field Command,  
and Chief Patrol Agent-Tucson Sector, in his  
official capacities,

Defendants.

Case No. 4:15-cv-00250-TUC-DCB

**DECLARATION OF ELIZABETH  
BALASSONE IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
LEAVE TO SUBMIT NEW VIDEO  
EVIDENCE IN SUPPORT OF  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT  
REGARDING DEFENDANTS'  
OBLIGATION TO PROVIDE BEDS**

**CLASS ACTION**

**(Assigned to the  
Honorable David C. Bury)**

Action Filed: June 8, 2015

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38(a)*

1 I, ELIZABETH BALASSONE, hereby declare:

2 1. I am a member of the bar of the State of California, an associate in the law  
3 firm of Morrison & Foerster LLP, and counsel of record for Plaintiffs in this litigation. I  
4 am admitted pro hac vice to practice before this Court in this matter. I submit this  
5 declaration in support of Plaintiffs' Motion for Leave to Submit New Video Evidence in  
6 Support of Motion for Partial Summary Judgment Regarding Defendants' Obligation to  
7 Provide Beds. I have personal knowledge of the facts stated herein and, if called as a  
8 witness, could and would competently testify thereto.

9 2. Attached as **Exhibit A** is a true and correct copy of the Declaration of  
10 Nicholas Gamiz in Support of Plaintiffs' Motion for Partial Summary Judgment  
11 Regarding Defendants' Obligation to Provide Beds ("Gamiz Declaration").

12 3. Attached as **Exhibit B** is a true and correct copy of the Declaration of Gary  
13 Stenger in Support of Plaintiffs' Motion for Partial Summary Judgment Regarding  
14 Defendants' Obligation to Provide Beds ("Stenger Declaration").

15 4. Attached as **Exhibit C** is a true and correct copy of the Declaration of  
16 Elizabeth Balassone in Support of Plaintiffs' Motion for Partial Summary Judgment  
17 Regarding Defendants' Obligation to Provide Beds ("Balassone Declaration").

18 5. Defendants produced March 2018 video surveillance footage from the Casa  
19 Grande Station. Plaintiffs received this video production on May 4, 2018.

20 6. Defendants produced April 2018 video surveillance footage from the Tucson  
21 Coordinating Center ("TCC") Station. Plaintiffs received this video production on May  
22 24, 2018.

23 7. Defendants produced May 2018 video surveillance footage from the TCC  
24 Station. Plaintiffs received this initial video production on June 29, 2018.

25 8. After spending several weeks trying to view the May 2018 video from TCC,  
26 Plaintiffs sent notice to Defendants that Plaintiffs were not able to access the data on the  
27 initial TCC video drive. Plaintiffs reported that the equipment used to view the video  
28

1 appeared unable to read any information from the drive. In response, Defendants offered  
2 to send another copy of the drive.

3 9. Defendants also reported that video footage from three holding cells in the  
4 TCC station was missing from the initial drive for almost the entire two-week period of  
5 May 2018 footage requested by Plaintiffs. Accordingly, Plaintiffs requested replacement  
6 video for alternate dates in May 2018.

7 10. Defendants produced replacement May 2018 video surveillance footage from  
8 the TCC Station for DVR WTUC29AE02. Plaintiffs received this video production on  
9 July 6, 2018.

10 11. Defendants produced June 2018 video surveillance footage from the TCC  
11 Station. Plaintiffs received this video production on July 30, 2018.

12 12. On August 7, 2018, I sent an email to counsel for Defendants with the  
13 screenshots of video surveillance footage attached to the Gamiz Declaration, Stenger  
14 Declaration, and Balassone Declaration. The screenshots contained proposed redactions  
15 to protect the identity of the individuals appearing therein. I requested that Defendants  
16 advise Plaintiffs as to whether the screenshots be filed with or without being lodged  
17 under seal.

18 13. On August 10, 2018, counsel for Defendants responded that the screenshots  
19 may be filed without being lodged under seal, provided that, if the screen shots were  
20 redacted, Plaintiffs file the redacted versions.

21 14. On August 7, 2018, I sent an email to counsel for Defendants to meet and  
22 confer regarding this motion. Defendants responded they were unable to state whether  
23 they would oppose this motion.

24 15. On August 15, 2018, I sent an email to counsel for Defendants clarifying that  
25 this new video evidence shows that the conditions as stated in Plaintiffs' Motion for  
26 Partial Summary Judgment exist to the present day. To date, Defendants have not  
27 provided further response.  
28

1 I declare under penalty of perjury under the laws of the United States of America  
2 that the foregoing is true and correct.

3  
4 Executed this 15th day of August, 2018, at San Francisco, California.

5 

6  
7 Elizabeth Balassone